

Claims 32 and 83 have been canceled to avoid contradiction of base claims 1 and 59 respectively. Claim 78 was canceled to reflect the amendment to independent claim 59.

Claims 1-16, 21-26, and 28-36 were rejected under 35 U.S.C. §102(b) were rejected as being anticipated by U.S. Patent No. 4,882,675, which issued November 21, 1989 to S. Nichtberger *et al.* and further in view of U.S. Patent No. 5,687,322, which issued November 11, 1997 to D.W. Deaton *et al.* Given the recitation of 35 U.S.C. §103(a) and the Examiner's stated basis for this rejection, the applicant assumes that the rejection for anticipation (35 U.S.C. §102(b)) was a typographical error, and that rejection for obviousness (35 U.S.C. §103(a)) was intended and responds accordingly.

In rejecting independent claim 1, the Examiner stated, "While, the Nichtberger patent discloses 'maintaining an account for each consumer', it fails to teach that account has a direct identification of the consumer with the account to exclude identification of the consumer by name. However, identifying consumers without name, for example by an identification number is well known in marketing. In an exemplary reference, Deaton teaches a method for distributing and redeeming electronic promotions (marketing), Refer to col. 5 L 12-43, 'using the identification number to search the customer database and to retrieve the corresponding customer record...'. Deaton thus teaches 'maintaining an account for each customer with said account to exclude identification of said consumer by name.' It would have been obvious to modify Nichtberger so that the consumer account is having a limited direct identification of the consumer with the account to exclude identification of the consumer by name per Deaton. Benefits of excluding the name of the consumer are maintain anonymity of the transactions whereby consumer is assured of his or her privacy so that personal data (including name) is not circulated for unsolicited advertisement material."

With due respect to the Examiner, the applicant finds the reliance upon the Deaton patent to reject the applicant's claims is misplaced. Applicant's independent claim 1 recites the step of "...maintaining an account for each consumer, said account having a limited direct identification of said consumer with said account to exclude identification of said consumer by name...". In other words, for the sake of the consumer's privacy, his or her name is not attached to the consumer's account. In the applicant's claimed invention, privacy is an active concern. See, for example, the applicant's specification, page 2, lines 24-37; page 4, lines

3-8. On the other hand, the nonuse of the customer's name in the Deaton system is not based upon privacy issues, but rather from technical advantages arising from the customer's financial instrument account number, as the applicant understands the cited reference.

From a reading of U.S. Patent No. 5,687,322, the applicant understands that the described system uses the customer's financial instrument account number, such as a check, credit card, debit card, or the like, as the customer's identification number, as a means to verify the financial trustworthiness of the customer at a store. However, this does not preclude the use of the customer's name; a perusal of the specification indicates that the customer's name is used and therefore is included in the described customer database.

For example, at the end of the reference's Summary of the Invention, there is stated, "The system develops and maintains a local customer database, allowing the store to accumulate customer information relevant to the store's customers over and above the information necessary for credit verification." Col. 6, lines 57-60. The customer information is used for targeted customer marketing, such as inducing the occasional customer to greater purchases and developing new customers for the store. See, for example, col. 61, lines 41-52. It seem extremely likely that among the accumulated customer information would be the customer's name. A person is far more likely to respond to his or her name, rather than anonymous terms, such as, "Customer," "Resident," "Occupant," and the like. Furthermore, in some of Deaton *et al.*'s marketing computer programs, the use of third party customer lists is described. See, for example, col. 62, lines 28-31 (step 31), which describes a list of residents in a geographic region from a third party to create a database of prospective new customer for the store. Such a list without the names of the residents is inconceivable.

In fact, in one described marketing program for infrequent shoppers, the use of a customer's name is explicitly described. "A new record is then created in the database for that customer's checking account identification number in response to a processor 110 response indicating the failure to locate, so that the customer's name and address is entered into the record along with a shopping incidence and shopping data being recorded in the database concurrently." Col. 65, lines 9-18.

One description of privacy concerns has been found in the Deaton reference by the applicant. The privacy issue appears in the context of merchant club cards and their lack of

acceptance by consumers. "First of all, the customer has to sign up at the store because the name and address have to be recorded and usually merchants ask for additional demographic data. There are a large number of customers who regards that an invasion of privacy and so are very reluctant to provide that sort of personalized information. Whereas on the transparent system of the present invention using ID's issued by a financial institution, there is no perceived invasion of privacy." Col. 75, lines 46-54. The "personalized information" described as being objectionable to a number of customers is the additional demographic data, not the consumer's name which is found on all financial institution ID's. After all, a personal check or a credit card has the name of the account holder imprinted on the check or card.

Hence, a fair reading of the cited Deaton reference removes this reference as a basis of rejecting applicant's independent claim 1. Likewise, all pending claims 2-26, 28-31 and 33-41, which are dependent upon claim 1, should also be allowable. In view of the applicant's comments, it should be evident that the rejection for dependent claim 28 (and claim 79, dependent upon base claim 59) is also specifically overcome.

Previously pending claims 59-78 and 85-89 were rejected under 35 U.S.C. §103(a) as being obvious over the cited Nichtberger patent and further in view of U.S. Patent No. 5,857,175, which issued January 5, 1999 to L.J. Day *al.* In response, the applicant has amended independent claim 59 to add the language, "said account having a limited direct identification of said consumer with said account to exclude identification of said consumer by name," in the account maintaining step and dependent claim 78 has been canceled. The applicant assumes that the previously cited Deaton patent might be cited against the added limitations of claim 59. However, as argued above with respect to claim 1, the Deaton patent does not teach, nor even hint at, this claim language. Though not used for consumer identification, the Deaton databases provide for the names of the consumers and do not meet the applicant's added claim limitation.

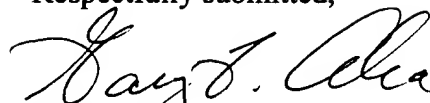
Independent claim 59 should be allowable and its dependent claims, claims 60-77, 79-82 and 84-89 should be allowed also.

Therefore, in view of the amendments above and the remarks directed thereto, the applicant respectfully requests that the rejections be removed, that pending claims 1-26, 28-31, 33-41, 59-77, 79-82 and 84-89 be allowed and the case be passed to issue.

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Application No.: 09/420,991
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PATENT

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary T. Aka". The signature is fluid and cursive, with the first name "Gary" being more prominent.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE IN THE CLAIMS

1 28. (Amended once) The method of claim [27] 1 wherein said consumer
2 account maintaining step comprises:
3 maintaining a database of only said key, at least one financial institution account
4 number, and purchasing history for each consumer.

1 59. (Amended once) A method for distributing and redeeming electronic
2 promotions to a plurality of consumers through a communications network, comprising:
3 maintaining an account for each consumer, said account having a limited direct
4 identification of said consumer with said account to exclude identification of said consumer by
5 name;
6 associating each consumer account with a unique key;
7 permitting access to said consumer account upon presentation of said unique key
8 over said communications network;
9 accepting offered promotions over said communications network of at least one
10 item for presentation to consumers, said offered promotions from a promoter of said item;
11 presenting promotion choices from said offered promotions of items available at
12 at least one store associated with said unique key over said communications network;
13 recording selections of said promotion choices made by said consumer over said
14 communications network;
15 receiving data of purchased items by said consumer at said associated store; and
16 reconciling said selections and purchases to credit said consumer.

1 77. (Amended once) The method of claim 59 wherein said consumer account
2 maintaining step [has] having a limited direct identification of said consumer with said account
3 by an address.

1 79. (Amended once) The method of claim 78 wherein said consumer account
2 maintaining step comprises:

- 3 maintaining a database of only said key, at least one financial institution account
- 4 number, and purchasing history for each consumer.

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